

Exhibit "G" Confrontation Clause

Motion to suppress pg.45,46,68,69

Appeal Court of the Eleventh Circuit opinonpg.4,15

S. H.

1 THE COURT: How much?

2 THE WITNESS: I'm not sure of the total. I thought it  
3 was over two ounces of crack cocaine.

4 Q. Where did you find it in the residence?

5 A. There was a back bedroom. I think Agent Spear actually  
6 found the crack cocaine. There was a computer desk, and it was  
7 in a white plastic bag up -- up in a drawer up under the  
8 computer desk.

9 Q. If you recall, was Ms. Hawk present in the residence when  
10 the drugs were found or the guns were found?

11 A. Yes. She was at the residence when the drugs --

12 Q. Was she in the residence?

13 A. Yes.

14 Q. Okay. Did Ms. Hawk make any other statements to law  
15 enforcement about her knowledge of either the guns or the drug  
16 evidence located?

17 A. I basically remember her saying that her and Mr. Jefferson  
18 were having problem -- marital problems because of his drug  
19 dealing and that they were separated for some time and they were  
20 trying to work things out.

21 Q. Do you remember her saying anything or indicating her  
22 knowledge of the guns?

23 A. I believe she stated that she had bought the guns from an ad  
24 in the newspaper or something to that effect.

25 Q. Do you recall if she said for what purpose she bought the

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1 guns?

2 A. I think Agent Whitten asked her about the guns, and she  
3 stated that Wendall couldn't -- Mr. Jefferson couldn't buy them  
4 because he was a convicted felon.

5 Q. You had indicated that it was your -- that you remembered  
6 that Ms. Hawk had said that they had been -- she and  
7 Mr. Jefferson had been separated; is that correct?

8 A. Yes, ma'am.

9 Q. Do you recall if Ms. Hawk in any way indicated that  
10 Mr. Jefferson resided at that house or who resided at the  
11 residence?

12 A. She stated they were trying to get back together and they  
13 were both back at the residence. I remember when we went to  
14 residence, there was -- there were -- there was a Christmas t  
15 and a bunch of Christmas presents and baby items. And I bel  
16 when -- I remember when we went in, there was a video game,  
17 Playstation II video game, that was still going when we got  
18 there.

19 Q. Was anybody at the residence when you arrived?

20 A. No, ma'am.

21 Q. And you had indicated that there were some baby items.  
22 you know whether or not Mr. Jefferson and Ms. Hawk have a

23 A. That's one reason she stated that they were trying to  
24 things work out, because they did have a child together.

25 Q. Was it a baby? Do you know?

S.H.  
1 front of Head to Toe?

2 A. Yeah. The second handicapped.

3 Q. Would that have been pretty near to where her car was,  
4 within five or six feet of her car?

5 A. Yes, ma'am.

6 MS. REDMOND: Nothing further.

7 THE COURT: Any redirect?

8 MS. COOPER: No, Your Honor.

9 THE COURT: You may be excused. You may remain in the  
10 courtroom or leave.

✓11 Next witness.

✓12 MS. COOPER: Your Honor, I would call Jennifer Hawk.  
✓13 would make a motion to the Court, Judge, to limit her testimony  
✓14 to the issues of consent regarding the search. Ms. Hawk is a  
✓15 defendant in the Circuit Court of Russell County on charges  
✓16 similar in nature arising out of the same set of facts and  
✓17 circumstances as this case.

✓18 MS. REDMOND: In addition, Your Honor, I might add that  
✓19 there is a possibility that Ms. Hawk will be added to a  
✓20 superseding indictment as a coconspirator. Yes, ma'am. I  
✓21 thought I should tell the Court.

22 THE COURT: How sure are you that she's going to be  
23 added? Do you have plans to add her?

24 MS. REDMOND: At this point, yes, ma'am, on the June  
25 15th --

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THE COURT: Well, then she shouldn't testify.

MS. REDMOND: -- grand jury.

THE COURT: She should not testify. Her counsel is not  
here.

MS. COOPER: Your Honor, I represent her in Circuit  
Court of Russell County.

THE COURT: But you won't be able to represent her  
here.

MS. COOPER: Yes, ma'am. I understand. I just wanted  
the Court to know that. And I did receive an advisory opinion  
from the Bar before I undertook that.

THE COURT: Because you will not be able to represent  
her here, Ms. Hawk's interests as a potential defendant in this  
court are not protected and the Court can't permit her to  
testify. She's a likely codefendant of Mr. Jefferson. I don't  
know how it could be limited in a way that both protects her  
Fifth Amendment rights and protects her Sixth Amendment rights  
There would always be room for counsel later to object -- that  
is, her counsel -- and I'm not going to put -- I'm not going to  
create that risk.

MS. COOPER: Based upon that, Your Honor, we would  
rest.

THE COURT: Anything further from the government?

MS. REDMOND: No, ma'am. No further witnesses to be  
called.

Prior to sentencing, a probation officer prepared a presentence investigation<sup>x</sup> report ("PSI"), which included, in relevant part, that, as part of an undercover<sup>x</sup> investigation, law enforcement agents learned that Jefferson was using his wife's<sup>x</sup> business, "Head to Toe Studios,"<sup>x</sup> to store, process, and sell cocaine base. As part of a consensual search of this business, the agents recovered a 9mm pistol loaded with two 30 round magazines under the front desk, and three plastic bags<sup>the size of the bag</sup> containing suspected cocaine residue in the trash can in the rear of the business. Moreover, as part of a same-day consensual search of the residence shared by Jefferson and Hawk, the agents recovered a loaded 9mm semiautomatic assault weapon with an extra 32-round magazine next to it, a double barrel 20-gauge shotgun, and a clear plastic bag containing 56.9 grams of cocaine base<sup>Exhibit B</sup> (Hawk told an agent that she purchased these firearms for Jefferson's benefit, because he was a convicted felon.<sup>1</sup>)

Based on these facts, the probation officer calculated Jefferson's total offense level as 29, his criminal history as III, and his resulting guideline range as 108 to 135 months' imprisonment. The probation officer, however, noted that, pursuant to U.S.S.G. § 2K2.4, the guideline sentences for Counts 4 and 6 were

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<sup>1</sup> The prosecutor testified at a hearing on Jefferson's suppression motion that, until Jefferson executed his plea agreement, the government intended to charge Hawk for her criminal conduct of purchasing these firearms.

To the extent Jefferson is asserting that the court should have granted his motion to withdraw his plea because his plea was coerced by the government's threat to prosecute his wife, he informed the court during his reaffirmation of his plea at his sentencing hearing that he had been motivated by the government's threat to indict his wife for the same conduct. Nevertheless, Jefferson advised the court that he understood he could withdraw his plea and proceed to trial, and that he still wished to plead guilty. Thus, we review this claim only for plain error.

See Monroe, 353 F.3d at 1349.

Here, the parties' plea agreement reflects that the government threatened to prosecute Jefferson's wife if he did not plead guilty; thus, Jefferson has the burden of showing that the government did not observe a "high standard of good faith," based upon probable cause to believe that the third party had committed a crime.

See Martin, 760 F.2d at 1247-48. However, prior to plea negotiations, the Exhibit AB  
government knew that the drugs and firearms were recovered from Jefferson's

wife's business and the residence she shared with Jefferson. Moreover,

Jefferson's wife informed law enforcement officers that she purchased these  
firearms.

The prosecutor also testified that, before Jefferson executed his plea agreement, it intended to charge his girlfriend for her criminal conduct of purchasing these firearms. Accordingly, the record shows that the threats by law